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S E C R E T SECTION 01 OF 04 ROME 003280

SIPDIS

DEFENSE FOR OSD/ISP AND GC
JOINT STAFF FOR DD PMA-A FOR WTC
STATE FOR L/ACV AND AC
USEUCOM FOR B. WEYER
THE HAGUE FOR CWC DEL

E.O. 12958: DECL: 07/03/2012

TAGS: [PARM](#) [MARR](#) [KTIA](#) [MARR](#) [KTIA](#) [MARR](#) [KTIA](#) [MARR](#) [KTIA](#) [IT](#) [CWC](#) [ITPARM](#) [CWC](#) [ITPARM](#) [CWC](#) [ITPARM](#) [CWC](#)
SUBJECT: CHEMICAL WEAPONS CONVENTION (CWC): AD REF HOST
SECRET

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COUNTRY AGREEMENT (HCA) WITH ITALY

CLASSIFIED BY: ACTING POL MC GARY ROBBINS FOR REASONS 1.5 (B) AND (D)

1. (C) SUMMARY: U.S. TEAM SUCCESSFULLY CONCLUDED AD REF HOST
COUNTRY
AGREEMENT (HCA) IN TALKS WITH ITALIAN OFFICIALS JUNE 21.
TEAM BELIEVES
THAT AD REF HCA PROTECTS FULLY U.S. INSPECTION RIGHTS WHEN
ITALY IS THE
INSPECTED STATE PARTY (ISP) AND RIGHT OF THE UNITED STATES
TO BE THE ISP.
END SUMMARY.

COMPOSITION OF U.S. AND ITALIAN TEAMS

2. (C) THE U.S. TEAM WAS COMPOSED OF:
TEAM LEADER: MS. SALLY HORN, DIRECTOR, NON-PROLIFERATION
POLICY, OFFICE
OF SECDEF
MR. WILLIAM RICHARD HADDAD, DOD
MR. MICHAEL COFFEE, DOS
MR. RICHARD SMART, DOS
LT. BRICE WEYER, EUCOM
CAPT. TOM GROCE, EMBASSY ROME, U.S. SENDING STATE OFFICE
MR. RAFIK MANSOUR, EMBASSY ROME (NOTETAKER)

THE ITALIAN TEAM WAS COMPOSED OF:
TEAM LEADER: MR. ALESSANDRO CEVESE, HEAD OF DISARMAMENT
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OFFICE, MFA
MR. MARCO GIUNGI, CWC SPECIALIST, DISARMAMENT OFFICE, MFA
RETIRED GEN. TRACCI, EXPERT ON CHEMICAL WEAPONS
COL. GIUSEPPE CORNACCHIA, CHIEF OF MOD ARMS CONTROL, NUCLEAR
WEAPONS &
COUNTERPROLIFERATION DIVISION, MOD
MR. BOSCO, JURIDICAL DEPT, MFA

WHO IS THE INSPECTED STATE PARTY (ISP)?

3. (C) BOTH SIDES RECOGNIZED THAT THE NEGOTIATIONS NEEDED TO
ADDRESS THE
ISSUE OF THE DEFINITION OF THE ISP. THE ITALIAN TEAM AGREED
THAT, WHEN U.S.
SOVEREIGN VESSELS OR AIRCRAFT WERE THE SOLE OBJECT OF AN
INSPECTION, THE
UNITED STATES HAD THE EXCLUSIVE RIGHT TO BE THE ISP FOR
INSPECTIONS OF ANY
SUCH VESSELS AND AIRCRAFT IN ITALY. CEVESE INITIALLY STATED
THAT, WITH THE
EXCEPTION OF SUCH SOVEREIGN VESSELS AND AIRCRAFT, ITALY ALONE
WOULD BE THE
ISP FOR INSPECTIONS CONDUCTED ON ITS SOIL SINCE IT ALONE HAD
JURISDICTION AND
CONTROL OVER FACILITIES ON ITS TERRITORY. HORN REPLIED THAT
WHILE THE
UNITED STATES GENERALLY DOES NOT HAVE JURISDICTION OVER THE
FACILITIES THAT
IT USES IN ITALY, UNDER THE TERMS OF THE 1954 AGREEMENT
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BETWEEN THE UNITED
STATES OF AMERICA AND THE ITALIAN REPUBLIC REGARDING
BILATERAL INFRASTRUCTURE
IN IMPLEMENTATION OF ARTICLE III OF THE NORTH ATLANTIC TREATY
AND THE 1995
MEMORANDUM OF UNDERSTANDING CONCERNING THE USE OF
INSTALLATIONS/
INFRASTRUCTURE IN ITALY, THE UNITED STATES HAS COMMAND
RESPONSIBILITY FOR THE
SAFETY AND SECURITY OF THE ASSETS AND PERSONNEL WITHIN THE

FACILITIES THAT IT UTILIZES. TO PERFORM THESE FUNCTIONS, THE UNITED STATES MUST HAVE THE RIGHT TO PROTECT ITS INTERESTS DURING ANY INSPECTIONS OF ITS ASSETS IN ITALY.

14. (S) HORN REMINDED THE ITALIAN TEAM THAT THERE WERE ADDITIONAL FACILITIES BEYOND SOVEREIGN VESSELS AND AIRCRAFT WHERE, GIVEN THE CWC,S CRITERIA OF "JURISDICTION OR CONTROL," THE UNITED STATES COULD LEGITIMATELY BE THE INSPECTED STATE PARTY. IN THIS REGARD, AS AN EXAMPLE, SHE REMINDED THE ITALIAN TEAM THAT THE UNITED STATES ALONE HAD "CONTROL" OVER,

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ACTION AC-01

INFO	LOG-00	NP-00	AF-00	ACQ-00	CIAE-00	COME-00	DOEE-00
	DOT-00	WHA-00	SRPP-00	EAP-00	EB-00	EUR-00	FAAE-00
	VC-00	H-01	TEDE-00	INR-00	IO-00	L-00	VCE-00
	WTC-00	NEA-00	NRRC-00	NSAE-00	NSCE-00	OES-01	OIC-02
	PA-00	PM-00	PRS-00	ACE-00	P-00	SP-00	IRM-00
	SS-00	T-00	USIE-00	SA-00	SSD-00	PMB-00	LBA-00
	SAS-00	/005W					

-----C62C38 031540Z /38

P 031553Z JUL 02
FM AMEMBASSY ROME
TO SECSTATE WASHDC PRIORITY 4609
INFO AMEMBASSY THE HAGUE PRIORITY
JOINT STAFF WASHDC PRIORITY
HQ EUCOM VAHINGEN GE//ECJ3-CI/ECJ23-H// PRIORITY
SECDEF WASHDC PRIORITY

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COUNTRY AGREEMENT (HCA) WITH ITALY

AND
RESPONSIBILITY FOR THE SECURITY OF, THE U.S. NUCLEAR VAULTS;
THE U.S.
COMMANDER ALONE WAS RESPONSIBLE FOR THE PEOPLE AND EQUIPMENT
INSIDE THESE
FACILITIES. THE ITALIAN TEAM AGREED THAT THE UNITED STATES
WOULD SATISFY THE
DEFINITION OF AN INSPECTED STATE PARTY IN THE CASE OF A
CHALLENGE INSPECTION
OF THESE VAULTS.

15. (S) BASED ON THE ABOVE UNDERSTANDING AND THE ITALIAN
DESIRE TO NOT
SINGLE OUT FOR MENTION THE VAULTS, THE ITALIAN TEAM
RELUCTANTLY AGREED TO
INCLUDE IN THE HCA, GENERAL PROVISIONS THAT WOULD APPLY IN
THE CASE THAT THE
UNITED STATES WERE TO BE THE INSPECTED STATE PARTY. IN
AGREEING TO THIS, THE
ITALIAN TEAM ALSO DECIDED TO INSERT LANGUAGE STATING THAT
ITALY MAY
UNILATERALLY DECIDE TO REJECT ACCESS TO AN INSPECTION TEAM IF
ITALY IS NOT
DESIGNATED THE INSPECTED STATE PARTY. (NOTE: THIS LANGUAGE,
SUGGESTED BY
THE U.S. TEAM TO ADDRESS ITALIAN POLITICAL SENSITIVITIES, IS
SIMILAR TO THAT
IN THE RECENTLY SIGNED U.S. HCA WITH THE GOVERNMENT OF
AUSTRALIA. IT STATES

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AN OBVIOUS PREROGATIVE OF THE ITALIAN GOVERNMENT, BUT DOES
NOT COMMIT THE
UNITED STATES TO TAKE ACTIONS THAT WE JUDGE WOULD VIOLATE OUR
CWC OBLIGATIONS.
END NOTE.)

16. (C) THE ITALIAN TEAM ALSO AGREED TO TEXT THAT WOULD

PROVIDE THE UNITED STATES WITH THE NECESSARY RIGHTS TO PROTECT U.S. SECURITY INTERESTS WHEN ITALY IS THE ISP.

HANDLING INSPECTORS NOT ACCEPTED BY ONE PARTY

17. (C) HORN RAISED CONCERN OVER CERTAIN INSPECTORS THAT THE USG WOULD FIND UNACCEPTABLE, CITING, AS AN EXAMPLE, IRANIANS AND CUBANS. GEN. TRACCI OBSERVED THAT ONCE NOTIFIED OF AN INSPECTION, A CWC STATE PARTY COULD NOT REFUSE AN INSPECTOR. HOWEVER, ONCE THE INSPECTION LIST CONTAINING THE NAMES OF THE INSPECTORS WAS RELEASED AND BEFORE ANY ACTUAL INSPECTION WAS ANNOUNCED, ANY CWC STATE PARTY MAY OBJECT TO INDIVIDUAL INSPECTORS. ONCE THE UNITED STATES OBJECTED TO INDIVIDUAL INSPECTORS, INDICATED THE ITALIAN TEAM, ITALY WOULD OBJECT TO THE INCLUSION OF THE SAME
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INDIVIDUALS ON THE INSPECTOR LIST FOR CHALLENGE INSPECTIONS INVOLVING U.S. ASSETS IN ITALY. THIS WAY, THESE INDIVIDUALS WOULD NOT BE INCLUDED ON THE INSPECTION TEAM. THE SIDES AGREED TO TEXT THAT STATES THAT EACH PARTY WILL NOTIFY THE OTHER PARTY OF ANY INSPECTORS TO WHOM IT OBJECTS AND THAT THE OTHER PARTY WILL SUBSEQUENTLY INFORM THE OPCW THAT IT OBJECTS TO THE INCLUSION OF THE SAME INSPECTORS FOR ANY CHALLENGE INSPECTIONS INVOLVING THE ASSETS OF BOTH PARTIES. (COMMENT: THIS WILL REQUIRE THE UNITED STATES ROUTINELY TO NOTIFY ITALY OF INSPECTORS TO WHOM IT OBJECTS. IT ALSO WILL REQUIRE ITALY TO NOTIFY THE TS ROUTINELY OF THESE INDIVIDUALS AND SOME COOPERATION FROM THE TECHNICAL SECRETARIAT AS IT MAY NOT BE IMMEDIATELY CLEAR WHETHER A

SIPDIS
PARTICULAR CHALLENGE
INSPECTION WILL INVOLVE U.S. ASSETS. END COMMENT.)

SAMPLING AT U.S. OPERATED FACILITIES

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ACTION AC-01

INFO	LOG-00	NP-00	AF-00	ACQ-00	CIAE-00	COME-00	DOEE-00
	DOTE-00	WHA-00	SRPP-00	EAP-00	EB-00	EUR-00	FAAE-00
	VC-00	H-01	TEDE-00	INR-00	IO-00	L-00	VCE-00
	WTC-00	NEA-00	NRRC-00	NSAE-00	NSCE-00	OES-01	OIC-02
	PA-00	PM-00	PRS-00	ACE-00	P-00	SP-00	IRM-00
	SS-00	T-00	USIE-00	SA-00	SSD-00	PMB-00	LBA-00
	SAS-00	/005W					

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P 031553Z JUL 02
FM AMEMBASSY ROME
TO SECSTATE WASHDC PRIORITY 4610
INFO AMEMBASSY THE HAGUE PRIORITY
JOINT STAFF WASHDC PRIORITY
HQ EUCOM VAIHINGEN GE//ECJ3-CI/ECJ23-H// PRIORITY
SECDEF WASHDC PRIORITY

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COUNTRY AGREEMENT (HCA) WITH ITALY

18. (C) THE ITALIANS WERE UNWILLING TO AGREE TO LANGUAGE THAT WOULD EXPLICITLY REQUIRE ANY SAMPLES TAKEN IN FACILITIES OPERATED BY THE UNITED STATES TO BE ANALYZED ON SITE OR IN THE UNITED STATES SINCE THEY BELIEVED THAT WOULD VIOLATE ITALIAN LAW AND PUT ITALY IN NONCOMPLIANCE WITH THE CWC. HOWEVER, THE ITALIAN TEAM DID AGREE THAT THE UNITED STATES COULD PLACE LIMITATIONS ON ANALYSIS PRIOR TO PERMITTING THE TS INSPECTION TEAM TO TAKE A SAMPLE, CITING SUCH ADVANCE RESTRICTIONS AS FULLY CONSISTENT WITH THE MANAGED ACCESS PROVISIONS OF THE CONVENTION. GIVEN THE ITALIAN RATIONALE AND AGREEMENT THAT THE UNITED STATES COULD RESTRICT SAMPLING AND ANALYSIS, THE UNITED STATES AGREED TO REPLACE THE EXPLICIT REFERENCE TO SAMPLING IN ARTICLE V(C)(2)(B) OF THE DRAFT HCA WITH LANGUAGE THAT WOULD PERMIT THE UNITED STATES "TO TAKE ANY MEASURES THAT ARE NECESSARY TO PROTECT ITS NATIONAL SECURITY." IT WAS UNDERSTOOD BY BOTH PARTIES THAT THIS MORE EXPANSIVE LANGUAGE INCLUDED THE RIGHT TO PLACE RESTRICTIONS ON, INCLUDING PROHIBITING,
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THE TAKING OF
SAMPLES SHOULD THE INSPECTION TEAM REFUSE TO AGREE THAT THE SAMPLES WOULD BE ANALYZED ON SITE, USING THE U.S. MOBILE LABORATORY.

19. (U) THE ITALIAN TEAM AGREED THAT THE UNITED STATES MAY BRING ITS MOBILE LABORATORY TO ITALY FOR A CHALLENGE INSPECTION. THE ITALIANS DID NOT BELIEVE THAT SEPARATE PROVISIONS RELATED TO ENTRY OF THE MOBILE LAB WERE NECESSARY, BUT DID AGREE TO INCLUDE LANGUAGE IN THE HCA OBLIGATING ITALY TO EXPEDITE ITS ENTRY INTO ITALY. THE ITALIANS SUGGESTED THAT THE LAB SHOULD BE TRANSPORTED DIRECTLY TO THE FACILITY OPERATED BY THE UNITED STATES THAT WOULD BE INSPECTED SINCE IT WOULD ONLY BE USED AT THAT LOCATION AND WOULD NOT BE NEEDED AT THE POINT OF ENTRY.

PROVISIONS FOR CONDUCTING TECHNICAL EQUIPMENT INSPECTIONS

110. (C) THE ITALIAN TEAM AGREED TO PROVIDE FOR MAXIMUM U.S. PARTICIPATION IN THE TECHNICAL EQUIPMENT INSPECTION. THE ITALIANS WILL DELAY THIS PART OF THE INSPECTION AS LONG AS POSSIBLE CONSISTENT WITH THE TREATY
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TIMELINES IN ORDER TO PROVIDE THE USG AN OPPORTUNITY TO SEND REPRESENTATIVES TO PARTICIPATE IN THIS ACTIVITY. (NOTE: THE ITALIAN TEAM REPORTED THAT THE TECHNICAL SECRETARIAT HAS AGREED TO ALLOW ITALY TO CONDUCT TECHNICAL EQUIPMENT INSPECTIONS AT INSPECTION SITES INSTEAD OF AT THE POINT OF ENTRY. ITALY WANTED TO INCLUDE LANGUAGE ON EQUIPMENT INSPECTIONS AT THE INSPECTION SITE. WHILE THE U.S. TEAM APPRECIATED THE MERIT IN THIS APPROACH -- PARTICULARLY IN THAT IT WOULD EXTEND THE TIME FOR ARRIVAL OF THE U.S. HOST TEAM CONTINGENT -- THE PRACTICE DOES NOT APPEAR TO BE PERMITTED BY THE CONVENTION. THE U.S. TEAM INDICATED THAT, THEREFORE, IT SHOULD NOT BE INCLUDED IN THE HCA TEXT. ITALY AGREED TO DROP THE EXPLICIT REFERENCE TO EQUIPMENT INSPECTIONS AT THE INSPECTION SITE. THE OUTCOME -- NO EXPLICIT REFERENCE IN THE HCA TO THE LOCATION OF SUCH INSPECTIONS -- DOES NOT,

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ACTION AC-01

INFO	LOG-00	NP-00	AF-00	ACQ-00	CIAE-00	COME-00	DOEE-00
	DOTE-00	WHA-00	SRPP-00	EAP-00	EB-00	EUR-00	FAAE-00
	VC-00	H-01	TEDE-00	INR-00	IO-00	L-00	VCE-00
	WTC-00	NEA-00	NRRC-00	NSAE-00	NSCE-00	OES-01	OIC-02
	PA-00	PM-00	PRS-00	ACE-00	P-00	SP-00	IRM-00
	SS-00	T-00	USIE-00	SA-00	SSD-00	PMB-00	LBA-00
	SAS-00	/005W					

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P 031553Z JUL 02
FM AMEMBASSY ROME
TO SECSTATE WASHDC PRIORITY 4611
INFO AMEMBASSY THE HAGUE PRIORITY
JOINT STAFF WASHDC PRIORITY
HQ EUCOM VAHINGEN GE//ECJ3-CI/ECJ23-H// PRIORITY
SECDEF WASHDC PRIORITY

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COUNTRY AGREEMENT (HCA) WITH ITALY

HOWEVER, PREJUDGE AN ON-THE-GROUND ACCOMMODATION BETWEEN THE
INSPECTION TEAM
AND THE ISP ON THIS ISSUE. END NOTE.)

WHAT'S NEXT?

¶11. (C) THE ITALIAN TEAM SAID THAT IT NEEDED UNTIL THE END OF
JULY FOR ITS
LEGAL ADVISERS TO REVIEW THE AD REF AGREEMENT AND CONFIRM THE
PRECISE
LANGUAGE IT WOULD WANT ON THE AMENDMENTS AND ENTRY INTO FORCE
PROVISIONS OF
THE HCA. ONCE ITS INTERNAL REVIEW WAS COMPLETE, IT WOULD
PROVIDE ANY
MODIFICATIONS THAT IT WOULD REQUIRE AS WELL AS AN ITALIAN
LANGUAGE VERSION
OF THE TEXT. THE U.S. TEAM INDICATED THAT THE COMPLETED TEXT
WOULD REQUIRE
FINAL APPROVAL IN WASHINGTON AND CONFORMING OF THE ENGLISH
AND ITALIAN-
LANGUAGE VERSIONS BY STATE LANGUAGE SERVICES. ONCE THE AD
REF TEXT IS
APPROVED IN BOTH ROME AND WASHINGTON AND THERE IS AGREEMENT
ON THE ITALIAN
VERSION, THE TEXT WOULD THEN HAVE TO BE SIGNED BY BOTH SIDES.
ITALY WOULD
THEN HAVE TO SEND THE AGREEMENT TO ITS PARLIAMENT FOR
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APPROVAL. THINKING
AMONG U.S. TEAM IS THAT, IN ACCORDANCE WITH THE CIRCULAR 175,
THE LEGALLY-
BINDING AGREEMENT WOULD BE AN EXECUTIVE AGREEMENT TO BE
NOTIFIED TO THE
CONGRESS.

DELEGATION COMMENT

¶12. (U) DELEGATION WISHES TO EXPRESS APPRECIATION FOR ALL OF
THE ASSISTANCE
IT HAS RECEIVED, AND CONTINUES TO RECEIVE, ON THIS ISSUE. IN
PARTICULAR,
THE DELEGATION WISHES TO THANK RAFIK MANSOUR, STEVE FORJOHN,
TOM GROCE, AND
MICAH WELLS.

¶13. (U) SALLY HORN HAS CLEARED THIS CABLE.

SEMBLER
SEMBLER

SECRET

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